

**RENEWAL**  
**CABLE TELEVISION LICENSE**  
**FOR**  
**THE TOWN OF AYER,**  
**MASSACHUSETTS**

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# **AYER RENEWAL LICENSE**

## **INTRODUCTION**

WHEREAS, AT&T CSC, Inc., offering services as AT&T Broadband (hereinafter "AT&T Broadband" or "Licensee"), is the duly authorized holder of a license to operate a Cable Communications System in the Town of Ayer, Massachusetts (hereinafter the "Town"), said license having originally commenced on April 8, 1985;

WHEREAS, the Issuing Authority granted approval to AT&T Corp., the parent of AT&T CSC, Inc., by way of a letter dated October 4, 2000, to acquire the Ayer Cable System from Cablevision of Massachusetts, Inc. of which said transaction became effective on January 5, 2001;

WHEREAS, the now AT&T Broadband filed a written request for a renewal of its license by letter dated April 15, 1997 in conformity with the Cable Communications Policy Act of 1984 and filed a renewal proposal dated April 27, 2001;

WHEREAS, there has been an opportunity for public comment, as required by Section 626(h) of the Cable Communications Policy Act;

WHEREAS, the Town's Board of Selectmen, as the Issuing Authority, finds that the renewal of AT&T Broadband's license is appropriate in light of its past performance, compliance with the terms of its existing license, and the terms contained in its request for license renewal;

NOW THEREFORE, after due and full consideration, the Town and AT&T Broadband agree that this Renewal License is issued upon the following terms and conditions:

## **ARTICLE 1**

### **DEFINITIONS**

#### **SECTION 1.1 - DEFINITIONS**

The following terms used in this Renewal License shall have the following meanings:

(a) Basic Broadcast Service - That service tier which shall include at least the retransmission of local broadcast television signals and the Public, Educational and Governmental (“PEG”) Access channel(s), in accordance with the Cable Act of 1992. Said service tier may be marketed by the Licensee under a brand name which may change from time to time.

(b) Broadcast - Over-the-air transmission by a radio or television station.

(c) Cable Act - Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 et. seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104-458, 110 Stat. 56 (1996).

(d) Cable Communications System or Cable System - The cable television system owned, constructed, installed, operated and maintained by Licensee in the Town of Ayer for the provision of broadband telecommunications services capable of operating as a fully addressable system of antennas, cables, wires, lines, fiber-optic cables, towers, wave guides or other conductors, converters, equipment or facilities, designed to provide telecommunications services, which includes, but is not limited to distributing video programming and technologies to Subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of signals to Subscribers and in accordance with the terms and conditions in this Renewal License.

(e) Cable Programming Services - Those service tiers which include all video programming services except the Basic Broadcast Service tier and pay and pay-per-view. Said

service tiers may be marketed by the Licensee under a brand name which may change from time to time.

(f) Cable Division - The Cable Television Division of the Massachusetts Department of Telecommunications and Energy established pursuant to Chapter 166A of the General Laws of the Commonwealth of Massachusetts.

(g) Cable Service - The one-way transmission to Subscribers of video programming, or other interactive programming service (including music), and Subscriber interaction, if any, which is required for the selection of such video programming or other programming service, and the installation and rental of equipment necessary for the receipt thereof.

(h) Competing Distributors - Distributors whose actual or proposed service areas overlap.

(i) Drop - The coaxial cable that connects a home or building to the Subscriber Network or Institutional Network.

(j) Effective Date - October 1, 2002.

(k) FCC - Federal Communications Commission.

(l) Gross Annual Revenues - Consideration of any form or kind received by the Licensee for the provision of Cable Service(s) over the Cable Communications System including, without limitation: Basic Broadcast Service monthly fees and all other Cable Service fees; installation, reconnection, downgrade, upgrade and any similar charges; interest collected on Subscriber fees and/or charges; all commercial Subscriber revenues; fees paid for channels designated for commercial use; home-shopping revenue; converter, remote control and other equipment rentals and/or leases or sales; advertising revenues; and all other revenue(s) derived by Licensee from the sale of products in any way advertised or promoted on the Cable Communications System. In the event that another entity is responsible for advertising, advertising revenues shall be deemed to be the pro-rata portion of advertising revenues, paid to the Cable System by the entity for said entity's use of the Cable Communications System for the carriage of advertising. Gross Annual Revenues shall not include any fee or tax on services

furnished by the Licensee and paid to any governmental entity and collected by the Licensee on behalf of such entity. Gross Annual Revenues shall also be adjusted for reductions to cash receipts, such as refunds and bad debt.

(m) Issuing Authority - The Board of Selectmen of the Town of Ayer, Massachusetts.

(n) Licensee - AT&T CSC, Inc., offering services as AT&T Broadband, or any successor or transferee in accordance with the terms and conditions in this Renewal License.

(o) License Fee - The payments to be made by the Licensee to the Town of Ayer and or any other governmental subdivision, and the Access Corporation, which shall have the meaning as set forth in Section 622(g) of the Cable Act and M.G.L. Chapter 166A, Section 9.

(p) Multichannel Video Programming Distributor - An entity engaged in the business of making available for purchase, by Subscribers or customers, multiple channels of video programming, and shall include video dial-tone.

(q) Original Programming - Programming produced solely by employees of the Licensee and/or with the assistance of community volunteers.

(r) Outlet - An interior receptacle that connects a television set to the Cable Communications System.

(s) PEG Access Programming - Programming produced by any Ayer residents or organizations, schools and government entities and the use of designated facilities, equipment and/or channels of the Cable System in accordance with 47 U.S.C. 531 and this Renewal License.

(t) Programming - Any video, audio, text or data coded signal carried over the Cable Communications System.

(u) Renewal License - The license granted herein.

(v) Standard Cable Package - A combination of Cable Service tiers, consisting of the Basic Broadcast Service tier and the Expanded Basic Broadcast Service tier, as provided by the Licensee as of the Effective Date and including any individual broadcast channels or cable networks added to these tiers as a result of the reconstruction of the Cable Communications

System. Said Standard Cable Package may be marketed by the Licensee under a brand name which may change from time to time.

(w) Subscriber - A person or entity who contracts with the Licensee for, and lawfully receives, the video signals and Cable Services distributed by the Cable Communications System.

(x) Subscriber Network - The trunk and feeder signal distribution network over which video, audio, text and data signals are transmitted to Subscribers.

(y) Town - The Town of Ayer, Massachusetts.



## **ARTICLE 2**

### **GRANT OF RENEWAL LICENSE**

#### **SECTION 2.1 - GRANT OF RENEWAL LICENSE**

(a) Pursuant to the authority of Chapter 166A of the General Laws of the Commonwealth of Massachusetts, and Cable Communications Policy Act of 1984 as amended, the Issuing Authority hereby grants a non-exclusive Renewal License to AT&T CSC, Inc., offering services as AT&T Broadband, a Delaware Corporation, authorizing and permitting said Licensee to construct, operate and maintain a Cable Communications System within the municipal limits of the Town of Ayer.

(b) This Renewal License is granted under and in compliance with the Federal Cable Act and Chapter 166A of the General Laws of the Commonwealth of Massachusetts, and in compliance with all rules and regulations of the FCC and the Cable Division and all other applicable rules and regulations in force and effect during the period for which this Renewal License is granted.

(c) Subject to the terms and conditions herein, the Issuing Authority hereby grants to the Licensee the right to construct, upgrade, install, operate and maintain a Cable Communications System, including such lines, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the Cable Communications System, in, under, over, along, across and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places under the jurisdiction of the Town within the municipal boundaries and subsequent additions thereto, including property over which the Town has a sufficient easement or right-of-way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video, audio, text, data and other impulses in accordance with the laws of the United States of America and the Commonwealth of Massachusetts and the bylaws/ordinances of the Town of Ayer.

**SECTION 2.2 - TERM: NON-EXCLUSIVITY [SEE G.L.c. 166A §§3(d) and 13]**

The term of this non-exclusive Renewal License shall be for a period of ten (10) years and shall commence on October 1, 2002, following the expiration of the current license, and shall terminate at midnight on September 30, 2012.

**SECTION 2.3 - POLE AND CONDUIT ATTACHMENT RIGHTS**

Pursuant to G.L.c. 166 §§22-25, permission is hereby granted to the Licensee to attach or otherwise affix cables, wire, or optical fibers comprising the Cable Communications System to the existing poles and conduits on and under public streets and ways, provided the Licensee secures the permission and consent of the public utility companies to affix the cables and/or wires to their pole and conduit facilities. By virtue of this License the Town grants Licensee equal standing with power and telephone utilities in the manner of placement of facilities on public ways.

**SECTION 2.4 - RENEWAL**

(a) In accordance with the provisions of federal law, Section 13 of Chapter 166A of the General Laws of the Commonwealth of Massachusetts and applicable regulations, this Renewal License shall be subject to additional renewals for the periods not to exceed ten (10) years or such other periods as allowed by law.

(b) Any such renewal or renewals shall be upon mutual written agreement by the Licensee and the Issuing Authority and shall contain such modified or additional terms as the Licensee and the Issuing Authority may then agree. Nothing contained in this Section shall obligate the Issuing Authority to grant any such renewal or either the Licensee or the Issuing Authority to agree to any renewal terms.

## **SECTION 2.5 - POLICE AND REGULATORY POWERS**

The Licensee's rights are subject to the powers of the Town to adopt and enforce general bylaws/ordinances necessary for the safety and welfare of the public, provided that such bylaws/ordinances are of general applicability and not specific to the Cable Communications System, the Licensee, or this License.

## **SECTION 2.6 - NON-EXCLUSIVITY OF LICENSE**

(a) This Renewal License shall not affect the right of the Issuing Authority to grant to any other person a license or right to occupy or use the streets, or portions thereof, for the construction, upgrade, installation, operation or maintenance of a Cable Communications System within the Town of Ayer; or the right of the Issuing Authority to permit the use of the public ways and places of the Town for any purpose whatsoever. The Licensee hereby acknowledges the Issuing Authority's right to make such grants and permit such uses.

(b) To the extent allowed by applicable law(s), the grant of any additional cable television license(s) shall be on substantially equivalent terms and conditions as those contained in this Renewal License.

(c) The issuance of additional license(s) shall be subject to all applicable federal and state laws, including G.L.c. 166A and applicable regulations promulgated thereunder.

(d) In the event that a Multichannel Video Programming Distributor, which is not in any way an affiliate of the Licensee, hereafter provides Programming to residents of the Town, and is not required by applicable law to be licensed by the Issuing Authority, and to the extent that the Licensee reports to the Issuing Authority, in writing, that the providing of such Programming of such Multichannel Video Programming Distributor is having a substantial negative impact upon the financial viability of the Licensee's Cable System in the Town, the Licensee may request, in writing, that the Issuing Authority convene a public hearing on that issue. The Issuing Authority shall convene said hearing within thirty (30) days of receipt of a hearing request from the Licensee.

- (i) Along with said written request, the Licensee shall provide the Issuing Authority with a written basis and written reasons for its determination of such substantial negative impact. At the public hearing, the Issuing Authority shall afford the Licensee an opportunity to present the basis and the reasons for its determination. The Licensee shall provide the Issuing Authority with such financial and other relevant information as is reasonably requested.
- (ii) Should the Licensee demonstrate that the Programming of such Multichannel Video Programming Distributor is having a substantial negative impact upon the financial viability of the Licensee's Cable System in the Town, the Issuing Authority shall make equitable amendments to this Renewal License as agreed to by the Issuing Authority and the Licensee.

### **ARTICLE 3**

#### **SYSTEM SPECIFICATIONS AND CONSTRUCTION**

##### **SECTION 3.1 - AREA TO BE SERVED [SEE G.L.c. 166A §3(a)]**

(a) The area to be served is the entire Town of Ayer. Service shall be provided to every dwelling occupied by a person requesting Cable Service, provided that the Licensee is able to obtain from property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Federal Cable Communications Act of 1984. However, the Licensee shall not be obligated to extend the Cable Communications System into any area where there are fewer than thirty (30) dwelling units per aerial strand mile of cable and sixty (60) dwelling units per underground mile of cable, calculated from the last dwelling unit toward the end of the nearest trunk line.

(b) Installation costs shall conform with the 1992 Cable Consumer Protection Act, and regulations thereunder. Any dwelling unit within one hundred fifty feet (150 ft.) aerial or one hundred fifty feet (150 ft.) underground of the cable plant shall be entitled to a standard installation rate.

(c) Provided Licensee has at least forty-five (45) days' prior notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame. If a substantial quantity of cable is required for a large subdivision and said quantity is not in stock, the Licensee shall be allowed additional time for said installation. The Issuing Authority, or its designee, shall exercise reasonable efforts to have the Planning Board and developers give timely notice of trenching and underground construction to the Licensee.

## **SECTION 3.2 - SUBSCRIBER NETWORK**

(a) The Licensee shall maintain a Cable Communications System utilizing addressable technology, fully capable of carrying a minimum of sixty five (65) channels in the downstream direction and at least two (2) channels in the upstream.

(b) Within eighteen (18) months of the Effective Date of this Renewal License, Licensee agrees to upgrade its Cable System to a capability of 750 MHz.

## **SECTION 3.3 - SUBSCRIBER NETWORK CABLE DROPS**

**[SEE G.L.c. 166A §5(e)]**

The Licensee shall maintain the current level of active Drops, Outlets and the Standard Cable Package, at no charge to the Town, to all municipal and other public buildings listed in **Exhibit A** attached hereto and made a part hereof. In addition, the Licensee shall provide one (1) Drop, Outlet and the Standard Cable Package at no charge to all new municipal and other Town owned public buildings which lie along its cable routes in the Town. The Licensee shall provide up to six (6) Outlets in Town Hall. The Issuing Authority or its designee shall consult with the appropriate individuals to determine the appropriate location for each Outlet prior to requesting that the Licensee install the free service. Nothing in this Section shall require the Licensee to install an additional Drop or Outlet to any municipal or Town owned public building which already has a free Drop or Outlet provided under the terms of the prior license.

## **SECTION 3.4 - PARENTAL CONTROL CAPABILITY**

(a) Upon request, and at no separate, additional charge, the Licensee shall provide Subscribers with the capability to control the reception of any channel on the Cable Communications System.

(b) The Issuing Authority acknowledges that the parental control capability may be part of a converter box and the Licensee may charge Subscriber for use of said box.

### **SECTION 3.5 - INTERCONNECTION WITH OTHER CABLE SYSTEMS**

During the term of this Renewal License, the Licensee may consider interconnecting the Cable Communications System with the cable systems in adjoining communities. In making any such determination, the Licensee shall consider the costs of interconnection and the benefits of interconnection.

**ARTICLE 4**  
**TECHNOLOGICAL AND SAFETY STANDARDS**

**SECTION 4.1 - SYSTEM MAINTENANCE**

(a) In installing, operating and maintaining equipment, cable and wires, the Licensee shall avoid damage and injury to trees, structures and improvements in and along the routes authorized by the Issuing Authority, except as may be approved by the Issuing Authority if required for the proper installation, operation and maintenance of such equipment, cable and wires.

(b) The construction, maintenance and operation of the Cable Communications System for which this Renewal License is granted shall be done in conformance with all applicable laws, bylaws/ordinances, codes and regulations, including but not limited to OSHA, the National Electrical Safety Code, and the rules and regulations of the FCC as the same exist or as same may be hereafter changed or amended.

(c) Operating and maintenance personnel shall be thoroughly trained in the use of all safety equipment and the safe operation of vehicles and equipment. All areas of the Cable Communications System shall be routinely inspected and maintained so that conditions that could develop into safety hazards for the public and/or operating and maintenance personnel can be corrected before they become a hazard. The Licensee shall install and maintain its wire, cable, fixtures, and other equipment in such a manner as shall not interfere with any installations of the Town or any public utility serving the Town.

(d) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public and private ways and places of the Town, wherever situated or located shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

(e) The signal of any television or radio station carried on the Cable Communications System shall be carried without material degradation in quality at all subscribing locations within



the limits imposed by the technical specifications of the Cable System and as set forth by the FCC. The Cable System shall be operated and maintained so as to comply with the technical standards set forth in the FCC's rules and regulations as they apply to cable television systems.

(f) Upon written notice from the Town, the Licensee shall remedy a general deficiency with respect to the technical standards described herein within three (3) months of receipt of notice and a safety deficiency within forty-eight (48) hours of receipt of notice and shall notify the Town when the deficiency has been corrected.

(g) The Licensee will comply with all applicable FCC regulations and standards relating to quality of the signals transmitted over the Cable System. After showing by the Issuing Authority of a significant number of complaints from Subscribers that indicates a general or area-wide signal quality problem concerning consistently poor or substandard signal quality in the Cable System, the Licensee, after written notice from the Issuing Authority, shall cure the problem in accordance with the provisions of Section 9.8; provided, however, that the Licensee may request additional time from the Issuing Authority in which to correct the problem, and the request shall not be unreasonably denied by the Issuing Authority. The Licensee shall not be obligated to maintain a signal quality better than that required by FCC regulations.

## **SECTION 4.2 - REPAIRS AND RESTORATION [SEE G.L.c. 166A §5(g)]**

Whenever the Licensee takes up or disturbs any pavement, sidewalk or other improvement of any public or private way or place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable. If the Licensee fails to make such restoration within a reasonable time, the Issuing Authority may fix a reasonable time for such restoration and repairs, and shall notify the Licensee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of the Licensee to comply within the time specified, the Issuing Authority may cause proper restoration and repairs to be made and the expense of such work shall be paid by the Licensee upon demand by the Issuing Authority.

### **SECTION 4.3 - TREE TRIMMING**

The Licensee shall have authority to trim trees upon and overhanging public streets, alleys, sidewalks and ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires, cables and equipment of the Licensee, in accordance with applicable state law and any Town bylaws/ordinances and regulations.

### **SECTION 4.4 - STRAND MAPS**

The Licensee shall maintain a complete set of strand maps of the Town, which will show those areas in which its facilities exist, the location of all streets and the location of all residences. The strand maps will be retained in a location reasonably convenient to the Town and will be available in the Town for inspection by the Issuing Authority upon written request.

### **SECTION 4.5 - BUILDING MOVES**

In accordance with applicable laws, the Licensee shall, at its expense, upon the written request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of the building(s). The Licensee shall be given not less than thirty (30) days' advance written notice to arrange for such temporary wire changes.

### **SECTION 4.6 - DIG SAFE**

The Licensee shall comply with all applicable "dig safe" provisions pursuant to G.L.c. 82 §40.

### **SECTION 4.7 - DISCONNECTION AND RELOCATION**

(a) The Licensee shall, at its sole cost and expense, protect, support, temporarily disconnect, relocate in the same street, or other public way and place, or remove from any street

or any other public ways and places, any of its property as required by the Issuing Authority or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, or the construction of any public improvement or structure by any Town department acting in a governmental capacity.

(b) In requiring the Licensee to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Issuing Authority shall treat Licensee the same as, and require no more of Licensee, than any other similarly situated utility.

#### **SECTION 4.8 - EMERGENCY REMOVAL OF PLANT**

(a) If, at any time, in case of fire or disaster in the Town, it shall be necessary in the reasonable judgment of the Issuing Authority to cut or move any of the wires, cable or equipment of the Cable Communications System, the Town shall have the right to do so without cost or liability, provided however that, wherever possible, the Issuing Authority gives Licensee written notice and the ability to relocate wires, cable or other equipment.

(b) In either case, the Licensee shall have the right to seek reimbursement under any applicable insurance or government program for reimbursement.

#### **SECTION 4.9 - STANDBY POWER**

The Licensee shall maintain at least two and one half hour standby power at the headend facility. Such standby power shall have continuous capability, contingent upon availability of fuel necessary to operate the generators therefor, shall become activated automatically upon the failure of the normal power supply.

#### **SECTION 4.10 - ANNUAL UPDATE HEARINGS**

Within sixty (60) days following the anniversary date of this Renewal License, the Issuing Authority may conduct annual hearings with the Licensee to review the Licensee's performance under this Renewal License and to discuss new technologies that will enhance or improve the

Cable Communications System and the economical feasibility of providing these new technologies to Subscribers in the Town. The Licensee shall cooperate fully with the Issuing Authority or its designee in connection with any such hearing and produce any documents related to compliance with this Renewal License or other materials that are reasonably requested by the Issuing Authority or its designee. A written request for the hearing must be delivered to the Licensee at least ninety (90) days prior to the anticipated date of the hearing, along with the topics that are to be specifically addressed at the hearing.

## **ARTICLE 5**

### **PROGRAMMING**

#### **SECTION 5.1 - BASIC BROADCAST SERVICE**

The Licensee shall make available a Basic Broadcast Service tier to which subscription is required for access to any other tier of service. Such basic tier shall, at a minimum, consist of: 1) all broadcast television signals carried in fulfillment of the requirements of Section 614 and 615 of the Cable Act of 1992, and 2) all active Public, Educational and Governmental (“PEG”) Access channel(s).

#### **SECTION 5.2 - PROGRAMMING**

The Licensee shall use its best efforts to provide a wide diversity of alternative programming options to Subscribers, including, but not limited to, sports programming, public affairs programming, news programming, entertainment programming, and movie programming. The Licensee has offered and shall provide the following Cable Services: 1) all broadcast stations required to be carried by federal law; and 2) Public, Educational and Governmental (“PEG”) Access channel(s) required by this Renewal License. The Licensee shall provide written notice to all Town Subscribers at least thirty (30) days in advance of any significant programming network changes. Pursuant to the Cable Act, 47 U.S.C. 532 (b) (3), the Licensee shall make available channel capacity for commercial use by persons unaffiliated with the Licensee.

#### **SECTION 5.3 - SIGNAL TRANSMISSION**

The Licensee shall not scramble or otherwise encode, for the entire term of this License any of the Basic Broadcast Services described in Section 5.1 (Basic Broadcast Service) and in accordance with federal law.

#### **SECTION 5.4 - CONTINUITY OF SERVICE**

Except where there exists an emergency situation necessitating a more expeditious procedure, the Licensee shall use reasonable efforts to interrupt service for the purpose of Cable Communications System construction, routine repairing or testing the Cable System only during periods of minimum use. When necessary service interruptions can be anticipated, the Licensee shall notify Subscribers in advance via electronic message.

#### **SECTION 5.5 - CONVERTER BOX, REMOTE CONTROLS**

Upon availability, and if economically feasible, Licensee shall make available two-way capable converter boxes to those Subscribers purchasing interactive services. The Licensee shall allow Subscribers to purchase remote control devices which are compatible with the converter installed by the Licensee and allow use of remotes at no additional charge from that of the converter charge.

#### **SECTION 5.6 - STEREO TV TRANSMISSIONS**

Upon completion of the upgrade pursuant to Section 3.2 herein, all television signals that are received at the Licensee's headend in stereo shall be transmitted in stereo to Subscribers.

## **ARTICLE 6**

### **PEG ACCESS CHANNEL(S) AND SUPPORT**

#### **SECTION 6.1 - PEG ACCESS CHANNEL(S)**

The Licensee shall continue to be responsible for providing public, educational and governmental (“PEG”) Access Programming, facilities and equipment to the residents of the Town until December 1, 2002, at which time a non-profit charitable corporation, known as an Access Corporation (the “Access Corporation”), shall assume responsibility for the provision of PEG programming, pursuant to provisions of this Article 6.

(a) The Licensee shall provide two (2) PEG Access channels for non-commercial use by residents of the Town, the educational authorities, organizations serving the Town and local government officials.

(b) The Licensee shall not charge residents of the Town, educational authorities, organizations serving the Town or local or any other regional governmental entities for non-commercial use of the PEG Access channel(s). Rules shall be established by the Licensee in cooperation with the Issuing Authority or its designee regarding PEG Access Programming, priority of use of the PEG Access channel(s), the prohibition of lottery information and obscene or indecent matter (modeled after prohibitions found in other FCC rules and regulations), and permitting public inspection of a complete record of names and addressees of all persons or groups requesting time on the PEG Access channel(s).

(c) Licensee shall continue to operate its production facility at 179 West Main Street until December 1, 2002. At such time that the Licensee no longer has local programming production responsibilities in either the Town of Ayer or the Town of Shirley, Licensee agrees to transfer ownership of the Town of Ayer's share of the existing video production equipment to the Access Corporation, in accordance with Sections 6.2 and 6.3.

(d) Licensee shall continue to provide support for PEG Access Programming in accordance with Section 6.2.

(e) Licensee shall provide annual funding for PEG Access Programming in accordance with Section 6.2.

(f) Licensee shall schedule, operate and program the PEG Access channels provided in accordance with Section 6.1(a) until December 1, 2002. At that time, scheduling, operation and programming of the PEG channels will become the sole responsibility of the Access Corporation.

(g) Licensee shall continue to provide outreach, training programs and other assistance to PEG Access users until December 1, 2002. At that time, the Access Corporation will provide outreach, training programs and other assistance to PEG access users.

## **SECTION 6.2 – PEG ACCESS SUPPORT**

(a) Licensee shall continue to provide three percent (3%) of revenue for, and in support of, PEG Access Programming until December 1, 2002. Personnel employed by the Licensee shall assist in the production of PEG Access Programming, and will be shared with the Town of Shirley. Costs of producing programming for Shirley, including salaries, shall not be passed through to Ayer customers.

(b) The Licensee's personnel shall provide support to, assist and cooperate with, Town personnel and residents to produce and cablecast events of interest to Ayer customers including but not limited to, governmental meetings, public hearings, and other events. Subsequent to December 1, 2002, the Access Corporation will assume these responsibilities, and the Licensee shall no longer be obligated to offer these services.

(c) Licensee shall provide annual funding in the amount equal to four percent (4%) of Gross Annual Revenue for the production of PEG Access programming, including salaries of PEG Access personnel. The four percent (4%) of Gross Annual Revenue provided by the Licensee shall include the three percent (3%) currently provided by the Licensee plus one percent (1%) as required under this Renewal License. The four percent (4%) of Gross Annual Revenue will appear as a line-item on customers' bills. Licensee shall pay four percent (4%) of Gross Annual Revenue to the Access Corporation, which shall be calculated on the previous quarter's



Gross Revenue, and shall be payable on a quarterly basis beginning with the first quarter, September 1 through November 30, 2002. Quarterly payments shall be made according to the schedule below. Quarterly payments shall be made to the Issuing Authority until such time that the Access Corporation is formally established and incorporated. Subsequent to its incorporation, payments shall be made to the Access Corporation. In addition, Licensee shall provide a grant of Fifteen Thousand Dollars (\$15,000) to the Issuing Authority or its designee no later than October 21, 2002. This initial funding shall be used by the Issuing Authority (or its designee) to incorporate the Access Corporation, to hire staff, and to assist the Access Corporation in establishing a production facility.

| <b>Payment Date</b>                      | <b>Period Covered</b>     |
|--|---------------------------|
| December 1, 2002, December 31 thereafter | September 1 - November 30 |
| March 31                                 | December 1 - February 28  |
| June 30                                  | March 1 - May 31          |
| September 30                             | June 1 - August 31        |

(d) Licensee will continue to operate the production facility at 179 West Main Street until the Access Corporation assumes responsibility for PEG programming on or before December 1, 2002. Subsequent to that date, and using the funds provided in 6.2 (c), the Access Corporation in conjunction with the Issuing Authority shall find a new production facility location within the Town. Licensee's obligation to fund such production facility shall be limited to the amounts specified in Section 6.2(c). The production facility shall be located as described in Section 6.4.

(e) Beginning on December 1, 2002, or such earlier date that the Access Corporation assumes responsibility, the Access Corporation shall provide services to PEG Access Users and the Town as follows:

- 1) Operate and maintain the production facility, and schedule, operate and program the PEG Access channels as provided in accordance with this Article 6;

- 2) Manage the annual funding, pursuant to Section 6.2(c);
- 3) Purchase and/or lease equipment, with the funds allocated for such purposes in Sections 6.2(c) and (d);
- 4) Conduct training programs in the skills necessary to produce PEG Access Programming;
- 5) Provide technical assistance and production services to PEG Access Users;
- 6) Establish rules, procedures and guidelines (with consultation with the Issuing Authority or its designee) for use of the PEG Access channels;
- 7) Provide publicity, fundraising, outreach, referral and other support services to PEG Access Users;
- 8) Assist Users in the production of Programming of interest to Subscribers and focusing on Town issues, events and activities; and,
- 9) Accomplish such other tasks relating to the operation, scheduling and/or management of the PEG Access channels, facilities and equipment as appropriate and necessary.

(f) Licensee shall be responsible for the technical maintenance and signal quality of the upstream and downstream local channel transmissions, notwithstanding the fact that Licensee is not responsible for the production quality of PEG Access productions nor is Licensee responsible for the access equipment not owned by the Licensee. All modulators required for the PEG Access Channels and programming shall be owned, operated maintained and replaced, if necessary, by the Access Corporation.

(g) On or about the close of its fiscal year, the Access Corporation shall provide the Issuing Authority and the Licensee with an annual report describing production facility activity and expenditures, for Issuing Authority and Licensee information and advisory consultation.

(h) Consistent with the current underwriting standards for Public Broadcasting System non-commercial television stations, notices of support and underwriting may be permitted within or adjacent to access programs, and revenues from same may be used for local access

productions. The foregoing underwriting, if any, shall not be the responsibility of the Issuing Authority or Licensee, and any access producer benefiting from such underwriting shall be responsible for handling of same.

(i) It is the intent of the parties that following the formation of the Access Corporation, the Access Corporation shall apply to the Internal Revenue Service for tax exempt status as a charitable non-profit corporation.

### **SECTION 6.3 - PEG ACCESS PRODUCTION EQUIPMENT SUPPORT**

(a) The Licensee will pay One Hundred Thousand Dollars (\$100,000) to the Issuing Authority or its designee for the purpose of purchasing video production equipment for the Access Corporation according to the following schedule: 1) Fifty Thousand Dollars (\$50,000) is to be paid on or before December 1, 2002, 2) Forty Thousand Dollars (\$40,000) is to be paid on or before February 15, 2003, and 3) Ten Thousand Dollars (\$10,000) is to be paid on March 15, 2008.

(b) When the Licensee no longer has programming responsibilities in either the Town of Ayer or the Town of Shirley, and only to the extent the Issuing Authority requests the equipment, the Licensee shall facilitate an equitable distribution of the equipment in the current Ayer studio between the Issuing Authority of Ayer and the Town of Shirley (or their respective designees). Licensee shall provide an inventory of the equipment in the current Ayer studio to the Issuing Authority no later than thirty (30) days prior to December 31, 2002, or such earlier date as agreed by the parties, at which time the Access Corporation shall be the sole owner of the equipment and will be responsible for maintenance and upkeep of the equipment.

### **SECTION 6.4 – PEG ACCESS CABLECASTING**

(a) In order to assist the Access Corporation in assuming the responsibilities of PEG Access programming, by December 1, 2002 Licensee shall construct a return line from the new Police Station which will allow the Access Corporation to cablecast programming from the

Police Station. Licensee shall move the existing playback equipment and modulator from the current studio to the Access Corporation's location in the Police Station by December 1, 2002. In addition, the Access Corporation will continue to be able to cablecast live meetings from the Library, High School auditorium, and two locations in Town Hall.

(b) No later than six (6) months after the system upgrade pursuant to Section 3.2, Licensee shall construct a return line consisting of a passive coaxial fiber (PCF) network for one-way video transmission utilizing 0.750 inch coaxial cable to connect the locations specified below and fiber optic cable to connect the hubsite in Town Hall to the headend. The locations shall be:

- (i) Town Hall, One Main Street – two rooms;
- (ii) Page Hilltop School, 115 Washington Street – one room;
- (iii) Ayer Middle / High School, 141 Washington Street – one room;
- (iv) Fire Station, 14 Washington Street – one room;
- (v) Library, 26 East Main St. - one room;
- (vi) Police Station, 54 Park St. - two rooms;
- (vii) New Fire Station at West Main St. and Park St.- one room.

(c) To the extent the production facility is located in Town Hall, there will be no cost to provide origination capability from such location. In order to connect to the passive coaxial fiber (PCF) network, any production facility location must be located at one of the sites connected to the PCF. If not, the site must be along the path of the PCF, and the Licensee and Issuing Authority or its designee agree to meet to review the feasibility of the site and the costs associated with connecting the site to the PCF.

(d) The Licensee shall also provide, for the origination capability, all RF (radio frequency) Transport Equipment (as defined below) so as to allow for the connection of a modulator to the return line and the return of the signal(s) to the headend. "RF Transport Equipment" shall include: one (1) demodulator and processor per PEG Access channel, up to a

maximum of two (2) each; one (1) fiber optic transmitter and one (1) receiver; and one (1) outlet in each room specified in Section 6.4(a).

(e) To provide for adequate picture quality, the Access Corporation video signal shall meet NTSC standards and/or the minimum operating input parameters of the modulators.

(f) The Issuing Authority shall provide a reasonably secure hubsite location in Town Hall or the Police Station at 54 Park St. to allow for the Licensee to provide origination capability in accordance with this Section.

(g) Once the PCF is constructed, Issuing Authority and Licensee agree to discuss the feasibility of connecting the Pleasant Street School to the PCF at a later date. Licensee shall submit a cost estimate to the Issuing Authority, which shall be passed through to customers upon completion of the installation.

(h) The Licensee reserves the right to pass through all payments pursuant to this Section to its Subscribers.

(i) The PCF will have the capability of switching from the Community Bulletin Board to live feeds from remote locations in a fashion that appears seamless to viewers. This feature will not be feasible until the PCF is constructed.

## **SECTION 6.5 - EMERGENCY USE**

In the case of any civil emergency or disaster, the Licensee shall, upon request of the Issuing Authority, make available to the Town a channel for use during the civil emergency or disaster period. The Licensee shall adhere to any new Emergency notification standards as established by the Federal Communications Commission.

## **SECTION 6.6 - COMMERCIAL ACCESS**

The Licensee shall make channel capacity available as required by federal law for commercial access cablecasting to any person, group, organization, or entity upon reaching an

appropriate agreement. Rates for use of commercial access channels shall be negotiated between the Licensee and the commercial user in accordance with federal law.

#### **SECTION 6.7 - EQUAL OPPORTUNITY [SEE G.L.c. 166A §5(j)]**

If the Licensee permits any person who is a legally qualified candidate for any public office to employ the facilities of its Cable Communications System to originate and disseminate political campaign material, it shall afford equal opportunities to all other such candidates for the same office. The conduct of the Licensee with respect to all program origination within its control shall be consistent with, and guided by, the rules and regulations of the FCC, found in 47 CFR §§76.205 and 76.209 and any and all other applicable laws and regulations.

#### **SECTION 6.8 - EDITORIAL CONTROL**

The Licensee shall be permitted only to exercise editorial control over programming to the extent permitted by federal law.

#### **SECTION 6.9 - PROGRAMMING EXCLUSIVITY AND NON-COMPETITION**

The Town agrees that it will not use its designated PEG Access channels, equipment, or other facilities to provide for-profit commercial services which have the effect of competing with the Licensee's telecommunications business. In addition, any programming produced under the provisions of this Article 6 shall not be commercially distributed to a competing Multichannel Video Programming Distributor without the consent of the Licensee.

## **ARTICLE 7**

### **CUSTOMER SERVICE AND CONSUMER PROTECTION**

#### **SECTION 7.1 - CUSTOMER SERVICE**

(a) The Licensee shall provide and maintain a toll-free 24-hour answering line which Subscribers may call without incurring added message units or toll charges so that prompt maintenance and service is available. At the time of initial subscription the Licensee shall give each new subscribing household a notice of billing practices and dispute procedures, which notice shall include the Licensee's telephone number.

(b) For the entire term of this Renewal License, the Licensee shall continue to operate its full-time customer service office in the Town of Westford, or similar location convenient for Ayer subscribers. The customer service office shall be open for walk-in business during normal business hours. The customer service office shall be computer-interconnected with the Licensee's main customer service office and shall, at a minimum, be staffed by at least one (1) customer service representative.

(c) Upon reasonable notice the Licensee shall expeditiously investigate and resolve complaints regarding the quality of service, equipment malfunctions and similar matters. The Licensee shall also maintain records of all reported complaints and action taken to respond to such complaints and shall make such records available to the Issuing Authority or designee for inspection upon request, but shall also comply with Subscribers' privacy rights in accordance with federal law.

(d) The Licensee shall respond to all service calls within twenty-four (24) hours and correct malfunctions as promptly as possible. A serious system malfunction will be serviced as soon as possible after its discovery. For these purposes, the Licensee shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its Subscribers.

(e) The Licensee shall comply with all customer service regulations of the FCC (47 CFR §76) as they exist or as they may be amended from time to time. Likewise, the Licensee

shall comply with the customer service regulations promulgated by the Cable Division as they exist or as they may be amended from time to time. Cable Division regulations are currently defined in 207 CMR Section 10.00, et. seq.

## **SECTION 7.2 - CONSUMER COMPLAINT PROCEDURES**

The Licensee shall establish a procedure for resolution of complaints by Subscribers. Upon reasonable notice, the Licensee shall expeditiously investigate and resolve all complaints regarding the quality of service, equipment malfunctions and similar matters. In the event that a Subscriber is aggrieved, the Issuing Authority shall be responsible for receiving and acting upon Subscriber complaints and/or inquiries, as follows:

(a) Upon written request of the Issuing Authority the Licensee shall, within ten (10) days after receiving a complaint and/or inquiries, send a written report to the Issuing Authority with respect to any complaint. Such report shall provide a full explanation of the investigation, finding and corrective steps taken by the Licensee.

(b) Should a Subscriber have an unresolved complaint regarding cable television operations, the Subscriber shall be entitled to file his or her complaint with the Issuing Authority or its designee, who shall have primary responsibility for the continuing administration of this Renewal License and the implementation of complaint procedures. The Subscriber shall thereafter meet jointly with the Issuing Authority or its designee and a representative of the Licensee, within thirty (30) days of the Subscriber's filing of his or her complaint, in order to fully discuss and resolve such matter. The Licensee shall notify each new Subscriber, at the time of initial subscription to Cable Service, of the procedures for reporting and resolving all such complaints.

(c) Notwithstanding the foregoing, if the Issuing Authority or its designee determines it to be in the public interest, the Issuing Authority or its designee may investigate any systemic complaints or disputes brought by Subscribers arising from the operations of the License.



(d) In the event that the Issuing Authority or its designee documents a pattern of multiple unresolved Subscriber complaints, the Issuing Authority or its designee shall suggest appropriate amendments to the Licensee's procedures for the resolution of complaints, which the Licensee shall not unreasonably refuse to incorporate into this Renewal License.

### **SECTION 7.3 - BUSINESS PRACTICE STANDARDS**

The Licensee shall provide the Issuing Authority, the Cable Division and all of its Subscribers with the following information in accordance with 207 CMR 10.00 et. seq., and made a part hereof, as the same may exist or as it may be amended from time to time: 1) notification of its billing practices; 2) notification of services, rates and charges; 3) equipment notification; 4) form of bills; 5) advance billing and issuance of bills; 6) billing due dates, delinquency, late charge and termination of service; 7) charges for downgrading of services; 8) billing disputes; and 9) service interruptions. No provisions of 207 CMR 10.00 are waived; however, the Issuing Authority reserves the right to do so.

### **SECTION 7.4 - SUBSCRIBERS' ANTENNAS - SWITCHING DEVICES**

**[SEE G.L.c. 166 §5(h)]**

The Licensee shall not remove any television antenna of any Subscriber but shall, at the Licensee's actual cost, plus reasonable rate of return, offer an adequate switching device to allow the Subscriber to choose between cable television and non-cable reception.

### **SECTION 7.5 - CHANNEL TRANSPOSITIONS [SEE G.L.c. 166A §5(i)]**

Whenever the Licensee transposes any television signal from the channel on which it was originally broadcast so that it is received on a different channel on the receiving sets of Subscribers, the Licensee shall at least thirty (30) days prior to such transposition notify its Subscribers in writing of such transposition and provide them with a marker suitable for mounting on television receivers indicating the fact of such transposition.

## **SECTION 7.6 - SERVICE INTERRUPTIONS [SEE G.L.c. 166A §5(1)]**

In the event that the Licensee's service to any Subscriber is completely interrupted for twenty-four (24) or more consecutive hours, the Licensee will grant such Subscriber a pro rata credit or rebate, on a daily basis, of that portion of the service charge during the next consecutive billing cycle, or at its option, apply such credit to any outstanding balance then currently due. In the instance of other individual Subscriber service interruptions, credits shall be applied as described above after due notice to the Licensee from the Subscriber.

## **SECTION 7.7 - SUBSCRIBER TELEVISION SETS**

The Licensee shall not engage directly or indirectly in the business of selling or repairing television sets; provided however that the Licensee may make adjustments to television sets in the course of normal maintenance. In the event Massachusetts General Laws are amended to remove this provision of the law, this Section shall be null and void.

## **SECTION 7.8 - PROTECTION OF SUBSCRIBER PRIVACY**

(a) The Licensee shall respect the rights of privacy of every Subscriber and/or user of the Cable Communications System and shall not violate such rights through the use of any device or signal associated with the Cable System, and as hereafter provided.

(b) The Licensee shall comply with all privacy provisions contained in this Section and all other applicable federal and state laws including, but not limited to, the provisions of Section 631 of the Cable Act as amended.

(c) The Licensee shall be responsible for carrying out and enforcing the Cable Communications System's privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal Subscriber information is handled and protected strictly in accordance with this policy and all governing laws and regulations.

(d) The Licensee shall notify all third parties who offer Cable Services in conjunction with the Licensee, or independently over the Cable System, of the Subscriber privacy requirements contained in this Renewal License.

(e) The Licensee shall allow the Issuing Authority to receive any requested historical data on trouble/complaint, if there is written authorization by Subscriber complainant for any case being negotiated.

(f) Prior to the commencement of Cable Service to a new Subscriber, and annually thereafter to all Cable Communications System Subscribers, the Licensee shall provide Subscribers with a written document which clearly and conspicuously explains the Licensee's practices regarding the collection, retention, uses, and dissemination of personal Subscriber information, and describing the Licensee's policy for the protection of Subscriber privacy.

(g) Neither the Licensee nor its designee nor the Town nor its designee shall, without a court order, tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor, any cable, line, signal, input device, or Subscriber Outlet or receiver for any purpose, without the prior written authorization of the affected Subscriber or user, provided, however, that the Licensee may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the Cable Act. The Licensee shall report to the affected parties any instances of monitoring or tapping of the Cable Communications System, or any part thereof, of which it has knowledge, whether or not such activity has been authorized by the Licensee. The Licensee shall not record or retain any information transmitted between a Subscriber or user and any third party, except as required for lawful business purposes.

(h) No poll or other upstream response of a Subscriber or user shall be conducted or obtained, unless: 1) the program of which the upstream response is a part contains an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response, and 2) the program has an informational, entertainment or educational function which

is self-evident. The Licensee or its designees shall release the results of upstream responses only in the aggregate and without individual references.

(i) Except as permitted by Section 631 of the Cable Act as amended, neither the Licensee nor its designees nor its employees shall make available to any third party, including the Town, information about any individual Subscriber. If a court authorizes or orders such disclosure, the Licensee shall notify the Subscriber not less than fourteen (14) calendar days prior to disclosure, unless such notification is otherwise prohibited by applicable law or the court.

(j) Upon a request by a Subscriber, the Licensee shall make available for inspection by a Subscriber at a reasonable time and place all personal Subscriber information that the Licensee maintains regarding said Subscriber. The Licensee shall ensure that all information related to billing and service requests is accurate and up to date and shall promptly correct any errors upon discovery.

(k) The Issuing Authority and the Licensee shall periodically review this Section to determine that it effectively addresses appropriate concerns about privacy.

## **SECTION 7.9 - DAMAGED OR LOST EQUIPMENT**

In the event that a Subscriber is unable to provide documentation to substantiate that a converter was stolen or destroyed by fire, the Licensee shall be entitled to assess a replacement cost for a missing converter. In the event that a Subscriber supplies the Licensee with a police or fire report which evidences that the loss of a converter resulted from theft or fire, the Licensee shall waive any charges.

## **SECTION 7.10 - EMPLOYEE IDENTIFICATION CARDS**

All of the Licensee's employees, including repair and sales personnel, entering private property shall be required to show an employee identification card issued by the Licensee.

## **ARTICLE 8**

### **RATES AND CHARGES**

#### **SECTION 8.1 - RATES AND CHARGES**

(a) A price schedule for service and installation in effect as of the date of execution of this Renewal License is attached hereto as **Exhibit B**. The Licensee shall provide written notice to all Town Subscribers at least thirty (30) days in advance of any subscription rate increases. Any changes in prices will be in conformance with the federal law, the rules and regulations of the FCC and any currently or hereinafter applicable federal and/or state laws and regulations.

(b) The Issuing Authority acknowledges that under the 1992 Cable Television Consumer Protection and Competition Act, certain costs of Public, Educational and Governmental (“PEG”) Access and other franchise requirements, may be passed through to the Subscribers in accordance with federal law.

(c) The Licensee may require a deposit or refuse service for a bona fide credit reason. The Licensee may levy reasonable collection charges on overdue or delinquent accounts. The Licensee requires that the account of any Subscriber requesting work be current before such work is performed.

(d) All rates for Subscriber services shall be published and non-discriminatory. A written schedule of all rates shall be available upon request during business hours at the Licensee’s business office. Nothing in this Renewal License shall be construed to prohibit the reduction or waiver of charges in conjunction with promotional campaigns for the purpose of attracting or retaining Subscribers.

## **ARTICLE 9**

### **REGULATORY OVERSIGHT**

#### **SECTION 9.1 - INDEMNIFICATION [SEE G.L.c. 166A §5(b)]**

The Licensee shall at its sole cost and expense indemnify and hold the Town harmless at all times during the term of this Renewal License, and subsequent renewals, if any, from any and all claims for injury and damage to persons or property, both real and personal, caused by the construction, installation, operation or maintenance of any structure, equipment, wire or cable authorized to be installed pursuant to this Renewal License. Upon receipt of notice in writing from the Issuing Authority, the Licensee shall at its own expense defend any action or proceeding against the Town in which it is claimed that personal injury or property damage was caused by activities of the Licensee, its employees and/or agents, in the construction, installation, operation or maintenance of its Cable Communications System. Notwithstanding the foregoing, the Licensee shall not indemnify the Issuing Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Issuing Authority.

#### **SECTION 9.2 - INSURANCE [SEE G.L.c. 166A §5(c)]**

(a) The Licensee shall carry insurance throughout the term of this Renewal License and any removal period pursuant to G.L.c. 166A, §5(f) with an insurance company authorized to conduct business in Massachusetts protecting, as required in this Renewal License, the Licensee and designating the Town as an additional insured, against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, operation, maintenance or removal of its Cable System. The amount of such commercial general liability insurance shall be in the amount of One Million Dollars (\$1,000,000) combined single limit for bodily injury and property damage. Policy will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation. Upon written request, the Licensee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

(b) The Licensee shall carry insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability in the amount of One Million Dollars (\$1,000,000). Policy will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation.

(c) All insurance coverage, including Workers' Compensation, shall be maintained throughout the period of this Renewal License. All expenses incurred for said insurance shall be at the sole expense of the Licensee. Policy will contain a provision that the Issuing Authority will receive thirty (30) days' written notice prior to any cancellation.

(d) Upon written request, the Licensee shall provide the Issuing Authority with a certificate(s) of insurance for all policies required herein.

### **SECTION 9.3 - PERFORMANCE BOND [SEE G.L.c. 166A §5(k)]**

(a) The Licensee has submitted and shall maintain throughout the duration of this Renewal License and any removal period pursuant to G.L.c. 166A, §5(f) a performance bond in the amount of One Hundred Thousand Dollars (\$100,000) through the completion of the upgrade, and reducing to Twenty five Thousand Dollars (\$25,000) thereafter, running to the Town with a company surety satisfactory to the Issuing Authority to guarantee the following terms:

- (1) the satisfactory completion of the installation and operation of the Cable System, and the Cable System upgrade as referenced in Section 3.2, in the time schedule provided herein and otherwise of G.L.c. 166A §5(a), (m) and (n);
- (2) the satisfactory restoration of pavements, sidewalks and other improvements in accordance with G.L.c. 166A §5(g);
- (3) the indemnity of the Town in accordance with G.L.c. 166A §5(b); and
- (4) the satisfactory removal or other disposition of the Cable System in accordance with G.L.c. 166A §5(f).

(b) The Licensee shall not reduce the amount or cancel said bond, or materially change the terms of said bond from the provisions of Section 9.3(a) herein without the Issuing Authority's prior written consent.

#### **SECTION 9.4 - LICENSE FEES**

(a) During the term of the Renewal License the annual License Fee payable to the Town shall be the maximum allowable by law, per Subscriber served as of the last day of the preceding calendar year, payable on or before March 15th of the said year, as listed in **Exhibit C**. Pursuant to G.L.c. 166A§9, this fee is currently fifty cents (\$.50) per Subscriber, but not less than Two Hundred Fifty Dollars (\$250) annually.

(b) In accordance with state and/or federal law the Issuing Authority may at its discretion, after holding a public hearing, direct the Licensee to pay a License Fee that shall not exceed five percent (5%), or higher if applicable law permits, of the Licensee's Gross Annual Revenues less any operating expense for PEG Access Programming under Article 6 herein and any other expense or cost falling within the definition of a franchise fee under 47 U.S.C. § 542. Said Licensee Fees may be passed through to Town subscribers pursuant to applicable law.

(c) All payments by the Licensee to the Town pursuant to this Section shall be made payable to the Town or its designee and deposited with the Town Treasurer unless otherwise agreed by the parties.

#### **SECTION 9.5 - REPORTS [SEE G.L.c. 166A §§8 and 10]**

(a) The Licensee shall file annually with the Cable Division on forms prescribed by the Cable Division, a sworn statement of its revenues and expenses for official use only. In addition, the Licensee shall also file with the Cable Division, a financial balance sheet and statement of ownership which shall be supplied upon written request of the Issuing Authority. These requirements shall be subject to the regulations of the Cable Division.



(b) As provided by law and applicable regulations, annually the Licensee shall notify the Issuing Authority and the Cable Division, on forms prescribed by the Cable Division, of complaints of Subscribers received during the reporting period and the manner in which the complaints have been met, including the time required to make any necessary repairs or adjustments.

(c) In addition, the Licensee shall maintain for public inspection all records required by the FCC and as specified in 47 CFR §76.305 in the manner prescribed therein.

(d) Upon written request of the Issuing Authority, Licensee shall provide additional reports including outages, and telephone answer rate reports on a regional basis.

(e) The Cable System shall comply with FCC Technical Specifications as defined in Subpart K of 47 CFR §76. Licensee shall conduct Proof of Performance Tests in accordance with the schedules required by the FCC, and shall prepare Proof of Performance test reports in accordance with 47 CFR §76.601 et. seq. The Proof of Performance test reports shall be submitted to the Issuing Authority or its designee upon written request. Tests shall be conducted on a semi-annual basis, or upon such schedule as may be determined by the FCC. In no case shall the Licensee be required to measure the performance of its Cable System to standards other than those promulgated by the FCC.

## **SECTION 9.6 - EQUAL EMPLOYMENT OPPORTUNITY**

The Licensee is an Equal Opportunity Employer and, pursuant to 47 CFR §76.311 and other applicable regulations of the FCC, must file an Equal Employment Opportunity Plan with the FCC and otherwise comply with the FCC regulations with respect to Equal Employment Opportunities. The Licensee has filed its current plan with the FCC and agrees to abide by such plan.

## **SECTION 9.7 - REVOCATION OF LICENSE [SEE G.L.c. 166A §11]**

The License issued hereunder may, after due written notice and hearing, be revoked by the Issuing Authority or the Cable Division for any of the following reasons:

(a) For false or misleading statements in, or material omissions from, the application submitted under Section 4 of G.L.c. 166A;

(b) For failure to file and maintain the performance bond as described in Section 9.3 (Performance Bond) or to maintain insurance as described in Section 9.2 (Insurance);

(c) For repeated violations, as determined by the Cable Division, of commitments of the license as set forth in Section 5(j) of G.L.c. 166A;

(d) For repeated failure to maintain signal quality pursuant to the standards provided for by the FCC and/or Cable Division;

(e) For any transfer or assignment of the Renewal License or control thereof without consent of the Issuing Authority;

(f) For failure to complete construction in accordance with the provisions of the Renewal License; and

(g) For repeated failure to comply with any of the material terms and conditions of the Renewal License.

## **SECTION 9.8 - NOTICE AND OPPORTUNITY TO CURE**

(a) In the event that the Issuing Authority has reason to believe that the Licensee has defaulted in the performance of any or several provisions of this Renewal License, except as excused by Force Majeure, the Issuing Authority shall notify the Licensee in writing, by certified mail, of the provision or provisions which the Issuing Authority believes may have been in default and the details relating thereto. The Licensee shall have thirty (30) days from the receipt of such notice to:

- (i) respond to the Issuing Authority in writing, contesting the Issuing Authority's assertion of default and providing such information or documentation as may be necessary to support the Licensee's position; or

(ii) cure any such default (and provide written evidence of the same), or, in the event that by nature of the default, such default cannot be cured within such thirty (30) day period, to take reasonable steps to cure said default and diligently continue such efforts until said default is cured. The Licensee shall report to the Issuing Authority, in writing, by certified mail, at thirty (30) day intervals as to the Licensee's efforts, indicating the steps taken by the Licensee to cure said default and reporting the Licensee's progress until such default is cured.

(b) In the event that (i) the Licensee fails to respond to such notice of default and/or (ii) the Licensee fails to cure the default or to take reasonable steps to cure the default within the required thirty (30) day period, the Issuing Authority or its designee shall promptly schedule a public hearing no sooner than fourteen (14) days after written notice, by certified mail, to the Licensee. The Licensee shall be provided reasonable opportunity to offer evidence, question witnesses, if any, and be heard at such public hearing.

(c) Within thirty (30) days after said public hearing, the Issuing Authority shall issue a written determination of its findings. In the event that the Issuing Authority determines that the Licensee is in such default, the Issuing Authority may determine to pursue any of the remedies available to it under this Renewal License or applicable law.

## **SECTION 9.9 – LIQUIDATED DAMAGES**

Determination of default of the Licensee's failure to comply with the provisions of Section 4.1(g), fifty dollars (\$50) per day, provided that if such non-compliance continues for more than six (6) months after the date of the finding of default, such damages shall increase to one hundred dollars (\$100) per day after such six (6) month period. Any such liquidated damages shall be assessed as of the date that the Issuing Authority made a determination of default pursuant to Section 9.8(d). So long as the Cable System meets FCC specifications for signal quality, the Issuing Authority may not assess any liquidated damages pursuant to this Section 9.9.

## **SECTION 9.10 - RIGHT OF REVIEW**

Prior to pursuing review under state or federal law, the parties may agree to arbitration under the rules of the American Arbitration Association.

## **SECTION 9.11 - TRANSFER OR ASSIGNMENT [SEE G.L.c. 166A §7]**

This Renewal License or control hereof shall not be transferred or assigned without the prior written consent of the Issuing Authority, which consent shall not be arbitrarily or unreasonably withheld. The consent of the Issuing Authority shall be given only after a hearing upon written application therefor on forms prescribed by the Cable Division. The application for consent to an assignment or transfer shall be signed by the Licensee and by the proposed assignee or transferee or by their representatives, evidence of whose authority shall be submitted with the application.

## **SECTION 9.12 - REMOVAL OF SYSTEM [SEE G.L.c. 166A]**

Upon termination of this Renewal License or of any renewal hereof by passage of time or otherwise, the Licensee shall remove its supporting structures, poles, transmission and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public and private places in, over, under, or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within six (6) months of such termination, the Issuing Authority or property owner may deem any property not removed as having been abandoned. Such abandonment shall not relieve the Licensee of cost of removal.

## **SECTION 9.13 - INCORPORATION BY REFERENCE**

(a) All presently and hereafter applicable conditions and requirements of federal, state and local laws, including but not limited to Massachusetts General Laws, Chapter 166A, and the rules and regulations of the FCC and the Cable Division, as they may be amended from time to

time, are incorporated herein by reference, to the extent not enumerated herein. All such general laws, rules, and regulations, as amended, shall control the interpretation and performance of this Renewal License to the extent that any provision of this Renewal License conflicts with or is inconsistent with such laws, rules or regulations.

(b) Should the Commonwealth of Massachusetts, the federal government or the FCC require the Licensee to perform or refrain from performing any act the performance or non-performance of which is inconsistent with any provisions herein, the Issuing Authority and the Licensee will thereupon, if they determine that a material provision herein is affected, modify any of the provisions herein to reflect such government action.

#### **SECTION 9.14 - COMMERCIAL NON-DISCRIMINATION**

No commercial establishment within the Licensee's service area shall be denied Basic Broadcast Service or Cable Programming Services if requested. In responding to a request for any level or tier of Cable Service , the Licensee shall treat like situated commercial establishments within the service area similarly and in accordance with federal law and regulations.

## **ARTICLE 10**

### **MISCELLANEOUS**

#### **SECTION 10.1 - SEVERABILITY**

If any section, paragraph, term or provision of this License is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction thereof, such determination shall have no effect on any other section, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of this Renewal License or any renewal or renewals hereof.

#### **SECTION 10.2 - FORCE MAJEURE**

If for any reason of force majeure the Licensee is unable in whole or in part to carry out its obligations hereunder, said Licensee shall not be deemed in violation or default during the continuance of such inability. Unless further limited elsewhere in this License, the term "force majeure" as used herein shall have the following meaning: strikes; acts of god; acts of public enemies, orders of any kind of the government of the United States of America or of the Commonwealth of Massachusetts or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots, epidemics; landslides; lightning; earthquakes; tornados; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts, arrests; civil disturbances; explosions; partial or entire failure of utilities; or any other cause or event not reasonably within the Licensee's control.

#### **SECTION 10.3 - NOTICES**

Every notice to be served upon the Issuing Authority shall be delivered or sent by certified mail (postage prepaid) to Attn: Board of Selectmen, Town of Ayer, One Main Street, Ayer, Massachusetts 01432 or such other address as the Issuing Authority may specify in writing to the Licensee. Every notice served upon the Licensee shall be delivered or sent by certified mail

(postage prepaid) to Attn: Director of Government & Legal Affairs, AT&T Broadband, 6 Campanelli Drive, Andover, MA 01810-1095 with a copy to Attn: Vice President of Law and Public Policy, AT&T Broadband, 6 Campanelli Drive, Andover, MA 01810-1095, or such other address as the Licensee may specify in writing to the Issuing Authority. The delivery shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

#### **SECTION 10.4 - ENTIRE AGREEMENT**

This instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals except as specifically incorporated herein, and cannot be changed without written amendment.

#### **SECTION 10.5 - CAPTIONS**

The captions to sections throughout this Renewal License are intended solely to facilitate reading and reference to the sections and provisions of the Renewal License. Such sections shall not affect the meaning or interpretation of the Renewal License.

#### **SECTION 10.6 - WARRANTIES**

The Licensee warrants, represents and acknowledges that, as of the date of execution of this Renewal License:

(a) The Licensee is duly organized, validly existing and in good standing under the laws of the State;

(b) The Licensee has the requisite power and authority under applicable law and its by-laws and articles of incorporation and/or other organizational documents, is authorized by resolutions of its Board of Directors or other governing body, and has secured all consents which are required to be obtained as of the date of execution of this Renewal License, to enter into and

legally bind the Licensee to this Renewal License and to take all actions necessary to perform all of its obligations pursuant to this Renewal License;

(c) This Renewal License is enforceable against the Licensee in accordance with the provisions herein; and

(d) There is no action or proceedings pending or threatened against the Licensee which would interfere with performance of this Renewal License.

#### **SECTION 10.7 - APPLICABILITY OF RENEWAL LICENSE**

All of the provisions in this Renewal License shall apply to the Town, the Licensee, and their respective successors and assigns.



WITNESS OUR HANDS AND OFFICIAL SEAL, THIS \_\_\_\_\_ DAY OF

\_\_\_\_\_ 20\_\_\_\_.

**TOWN OF AYER**

By:

\_\_\_\_\_  
C. Jane Witherow, Chair

\_\_\_\_\_  
James Fay, Vice Chair

\_\_\_\_\_  
Frank Maxant, Clerk

\_\_\_\_\_  
Paul Bresnahan, Selectman

\_\_\_\_\_  
Cornelius Sullivan, Selectmen

**AT&T CSC, INC., offering services as**  
**AT&T BROADBAND**

By:

\_\_\_\_\_  
David J. Grain  
Senior Vice President  
Northeast Region

**EXHIBIT A**

**PUBLIC AND MUNICIPAL BUILDINGS  
ON THE SUBSCRIBER NETWORK**

Public School Buildings:

Page Hilltop School

Ayer Middle/High School

Municipal Buildings:

Ayer Town Hall

Ayer DPW Building

Ayer Police Station

Ayer Washington St. Fire Station

Ayer new Fire Station (when constructed)

Ayer Library

**EXHIBIT B**

**SCHEDULE OF CURRENT MONTHLY RATES AND CHARGES**

*Please see the following pages.*

## EXHIBIT C

### LICENSE PAYMENTS

*Please see the following pages.*

|     | DUE DATE   | AMOUNT DUE  | LIC SECTION | DESCRIPTION   | PAYABLE TO               |
|-----|------------|-------------|-------------|---|--------------------------|
| 1.  | 10/21/02   | \$15,000    | 6.2(c)      | Grant for the Access Corp.                                | Town of Ayer             |
| 2.  | 12/01/02   | \$50,000    | 6.3         | Equipment Capital Payment                                 | Town of Ayer             |
| 3.  | 12/1/02    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 9/1/02 - 11/30/02)       | Access Corp              |
| 4.  | 2/15/03    | \$40,000    | 6.3         | Equipment Capital Payment                                 | Town of Ayer Access Corp |
| 5.  | 3/31/03    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 12/1/02-2/28/03)         | Town of Ayer Access Corp |
| 6.  | 3/15/03    | \$ 0.50/sub | 9.4         | License Fee Payment<br>(for period of Jan '02 – Dec -'02) | Town of Ayer             |
| 7.  | 6/30/03    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 3/1/03-5/31/03)          | Town of Ayer Access Corp |
| 8.  | 9/30/03    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 6/1/03-8/31/03)          | Town of Ayer Access Corp |
| 9.  | 12/31/03   | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 9/1/03 - 11/30/03 )      | Town of Ayer Access Corp |
| 10. | 3/31/04    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 12/1/03-2/28/04)         | Town of Ayer Access Corp |
| 11. | 3/15/04    | \$ 0.50/sub | 9.4         | License Fee Payment<br>(for period of Jan '03 – Dec '03)  | Town of Ayer             |
| 12. | 6/30/04/04 | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 3/31/04-5/31/04)         | Town of Ayer Access Corp |
| 13. | 9/30/04/04 | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 6/1/04-8/31/04)          | Town of Ayer Access Corp |
| 14. | 12/31/04   | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 9/1/04-11/30/04)         | Town of Ayer Access Corp |
| 15. | 3/31/05    | 4.0% of GAR | 6.2(c)      | Access Payment<br>(for period of 12/1/04-2/28/05)         | Town of Ayer Access Corp |

|     |          |             |        |  |                          |
|-----|----------|-------------|--------|--|--------------------------|
| 16. | 3/15/05  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '04 – Dec '04) | Town of Ayer             |
| 17. | 6/30/05  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/05-5/31/05)         | Town of Ayer Access Corp |
| 17. | 9/30/05  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/05-8/31/05)         | Town of Ayer Access Corp |
| 18. | 12/31/05 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/05-11/30/05)        | Town of Ayer Access Corp |
| 19. | 3/31/06  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/05-2/28/06)        | Town of Ayer Access Corp |
| 20. | 3/15/06  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '05 – Dec '05) | Town of Ayer             |
| 21. | 6/30/06  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/06 - 5/31/06)       | Town of Ayer Access Corp |
| 22. | 9/30/06  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/06 - 8/31/06)       | Town of Ayer Access Corp |
| 23. | 12/31/06 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/06 - 11/30/06)      | Town of Ayer Access Corp |
| 24. | 3/05/07  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '06 – Dec '06) | Town of Ayer             |
| 25. | 3/31/07  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/06 - 2/28/07)      | Town of Ayer Access Corp |
| 26. | 6/30/07  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/07 - 5/31/07)       | Town of Ayer Access Corp |
| 27. | 9/30/07  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/07 - 8/31/07)       | Town of Ayer Access Corp |
| 28. | 12/31/07 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/07 - 11/30/07)      | Town of Ayer Access Corp |
| 29. | 3/15/08  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '07 – Dec '07) | Town of Ayer             |
| 30. | 3/15/08  | \$10,000    | 6.3    | Equipment Capital Payment                                | Town of Ayer Access Corp |
| 31. | 3/31/08  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/07 - 2/28/08)      | Town of Ayer Access Corp |
| 32. | 6/30/08  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/08 - 5/31/08)       | Town of Ayer Access Corp |
| 33. | 9/30/08  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/08 - 8/31/08)       | Town of Ayer Access Corp |
| 34. | 12/31/08 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/08 - 11/30/08)      | Town of Ayer Access Corp |
| 35. | 3/15/09  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '08 – Dec '08) | Town of Ayer             |
| 36. | 3/31/09  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/08 - 2/28/09)      | Town of Ayer Access Corp |
| 37. | 6/30/09  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/09 - 5/31/09)       | Town of Ayer Access Corp |
| 38. | 9/30/09  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/09 - 8/31/09)       | Town of Ayer Access Corp |
| 39. | 12/31/09 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for the period 9/1/09-11/30/09)       | Town of Ayer Access Corp |
| 40. | 3/15/10  | \$ 0.50/sub | 9.4    | License Fee Payment<br>(for period of Jan '09 – Dec '09) | Town of Ayer             |
| 41. | 3/31/10  | 4.0% of GAR | 6.2(c) | Access Payment   | Town of Ayer Access      |

|     |          |             |        |  |                          |
|-----|----------|-------------|--------|--|--------------------------|
|     |          |             |        | (for period of 12/1/09-2/28/10)                          | Corp                     |
| 42. | 6/30/10  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/10 - 5/31/10)       | Town of Ayer Access Corp |
| 43. | 9/30/10  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/10 - 8/31/10)       | Town of Ayer Access Corp |
| 44. | 12/31/10 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/10 - 11/30/10)      | Town of Ayer Access Corp |
| 45. | 3/15/11  | \$ 0.50/sub |        | License Fee Payment<br>(for period of Jan '10 – Dec '10) | Town of Ayer             |
| 46. | 3/31/11  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/10 - 2/28/11)      | Town of Ayer Access Corp |
| 47. | 6/30/11  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/11 - 5/31/11)       | Town of Ayer Access Corp |
| 48. | 9/30/11  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/11 - 8/31/11)       | Town of Ayer Access Corp |
| 49. | 12/31/11 | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 9/1/11 - 11/30/11)      | Town of Ayer Access Corp |
| 50. | 3/15/12  | \$ 0.50/sub |        | License Fee Payment<br>(for period of Jan '11 – Dec '11) | Town of Ayer             |
| 51. | 3/31/12  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 12/1/11 - 2/28/12)      | Town of Ayer Access Corp |
| 52. | 6/30/12  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 3/1/12 - 5/31/12)       | Town of Ayer Access Corp |
| 53. | 9/30/12  | 4.0% of GAR | 6.2(c) | Access Payment<br>(for period of 6/1/12 - 9/3/12)        | Town of Ayer Access Corp |

